



Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

TOWN AND COUNTRY PLANNING ACT 1990

**APPEAL BY RICHBOROUGH ESTATES, LONE STAR LTD,
K & S HOLFORD, A & S DEAN, NP GILES AND ALC
BROADBERRY**

**OS PARCEL 1570, ADJOINING & WEST OF CHILGROVE DRIVE &
ADJOINING & NORTH OF CAMP ROAD, HEYFORD PARK,
OXFORDSHIRE**

LOCAL PLANNING AUTHORITY REF NO: 21/04289/OUT

PLANNING INSPECTORATE REF NO: APP/C3105/W/23/3326761

PROOF OF EVIDENCE: Andy Bateson BSc (Hons) MRTPI

ON BEHALF OF: Cherwell District Council, the Local Planning Authority

7 NOVEMBER 2023

Core Document E21

The Appeal Site



Proof of Evidence of Andy Bateson

My name is Andy Bateson, I am a Development Management Team Leader for Major Developments at Cherwell District Council, where I have been employed for the past three years.

I have a Bachelor of Science (Hons) degree in Town & Regional Planning from Dundee University, and I am a chartered member of the RTPI.

My role at Cherwell District Council includes managing a team of planning professionals who collectively with myself provide pre-application advice for major planning and regeneration projects in the district, particularly in the north of the District and around Banbury and Heyford Park and determining major planning applications.

In previous planning roles in both the public and private sectors between 1984 and 2020, I worked for the Property Services Agency, York City Council, Richmondshire District Council, Aylesbury Vale District Council, as a Director at planning consultancy RPS, I ran my own consultancy of AB Planning & Development Ltd, and latterly was a partner at West Waddy.

Whilst at Aylesbury Vale District Council I rose to the position of Plans Team Leader where I assisted in the preparation and subsequent adoption of three Local Plans, which included the allocation of several major urban extension developments, plus I undertook appraisals and designated over thirty conservation areas and helped prepare the Council's first Economic Development Strategy. During eighteen years in the private sector, I promoted and helped secure planning permission for several major and smaller residential developments across the Home Counties and Midlands, I oversaw major hospital redevelopments at Whipps Cross in London and Hexham in Northumberland and managed a team responsible for major MOD developments at Burghfield, Aldermaston and Porton Down.

I am familiar with the appeal site and the surrounding area. I consider the Council's position to be well founded, and I agree with the Council's reasons for refusal.

The evidence which I have prepared and provide for this appeal is true: it has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

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- CDC 1** Objection comments from Lower Heyford, & Somerton Parish Councils and from the Mid Cherwell Neighbourhood Planning Forum (a Rule 6 Party) [**Core Docs D12, D22 & D13**]
- CDC 2** Comments on the application from Heyford Park Parish Council [**Core Docs D8**]
- CDC 3** Comments on the application from the District Council's Planning Policy, Conservation & Design team [**Core Docs D3 & D20**]
- CDC 4** Comments on the application from the District Council's Landscape, Environmental Health and Recreation & Leisure Officers [**Core Docs D11, D7 & D21**]
- CDC 5** Comments on the application from consultees Thames Water, the Environment Agency, Natural England, Nature Space Partnership, Thames Valley Police, the Oxfordshire Clinical Commissioning Group and Oxfordshire County Council as

Local Highway Authority, Education Authority, Local Lead Flood Authority and Archaeologist [**Core Docs D24, D6, D15, D16, D23, D18 & D19**]

CDC 6 Third-Party objections from Dorchester Living (a Rule 6 Party) [**Core Docs D4**]

CDC 7 Land West of Chinalls Close, Adjacent to Banbury Road, Finmere ¹ (Ref: APP/C3105/W/22/3309489) [**Core Docs M16**] (Statement of Common Ground)

CDC 8 Cherwell District Council resolution to grant planning permission for 483 houses on two of the Oxford unmet need sites, known as PR sites (Policy sites PR7a and PR7b)

CDC 9 Summary details of planning applications currently being considered which, collectively, seek to deliver a further 3,184 houses on the PR sites

¹ It is also noteworthy that the appellants, who had argued (in their Statement of Case) that the Council's housing land supply position was 4.76 years, formally agreed, at the hearing on the 17th October 2023, that the Council does currently have a five year housing land supply.

1. INTRODUCTION

1.1 This Proof of Evidence sets out my evidence on behalf of Cherwell District Council (“**the Council**”) in respect of the appeal submitted by Richborough Estates, Lone Star Ltd, A & S Dean, NP Giles and ALC Broadberry (“**the Appellants**”) under Section 78(1) of the Town and Country Planning Act 1990 against the Council’s decision to refuse Planning Application Ref 21/04289/OUT pertaining to Land at OS Parcel 1570, Adjoining and West of Chilgrove Drive and Adjoining and North of Camp Road, Heyford Park, Oxfordshire (“**the Site**”).

1.2 The planning application, initially received by the Council on 29th December 2021 but not valid at that time, sought planning permission for the development of the site, and was described by the Council as follows:

“Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works, with all matters reserved apart from Access.”

1.3 The application was made valid and then registered by the Council on the 4th April 2022 under reference 21/04289/OUT. The application was the subject of initial advertisement and consultation until 20th August 2022 and was subsequently amended and supplemented with further consultation undertaken until 26th January 2023.

1.4 In response to the consultations, Lower Heyford and Somerton Parish Councils and the Mid Cherwell Neighbourhood Planning Forum raised objections on the following grounds (as referenced in Section 7 of the Council’s Planning Committee Update report, see extract at **Appendix CDC 1**) [**Core Docs D12, D22 & D13**]:

- Contrary to Cherwell Local Plan Policy Villages 5 - in that it is not allocated for development and is greenfield;
- Loss of greenfield land and biodiversity - a loss of open countryside, green space, biodiversity and ecological assets of high value to the residents of Heyford Park, contrary to Local Plan policies ESD 10 and ESD 13;
- Loss of local landscape character. As well as ESD13, the Mid-Cherwell Neighbourhood Plan policy PD3 “Development adjacent to Heyford Park” focusses on avoiding coalescence with surrounding settlements. Development would damage local landscape character, including several of the criteria set out in para 3.2.20, in particular: loss of access to the countryside for the inhabitants of the settlement (of Heyford Park); and harm to the setting of and rural character of the settlement; and
- Incorrect Traffic Assessment-based on the flawed Bicester Traffic Model, therefore no determination should take place until this is corrected.

1.5 Heyford Park Parish Council did not object but requested (see **Appendix CDC 2**) [**Core Docs D8**]:

- Access to S106 funding for land to be passed to the PC for a play area/public park, or a small plot of land for an amenity space or play area, or on which a Parish Council office or small community building could be built;
- That traffic calming measures are installed on the Camp Road where the road to the new development accesses it; and

- That a defibrillator be installed in a central place on the new development, that is accessible to the public at all times.
- 1.6 The Council's Planning Policy, Conservation and Design team raised an in-principle but qualified objection in respect to: (see **Appendix CDC 3**) [**Core Docs D3 & D20**]
- The proposed development is contrary to the adopted development plan as the application site is not allocated for development in the Plan. However, as the Council cannot demonstrate a five-year housing land supply, in accordance with the NPPF, any assessment of the residential proposals will need to apply the 'tilted balance'. Due regard should be had as to the implications for the comprehensive masterplan. The proposal should not undermine the Policy Villages 5 development principles. The proposal will need to be considered carefully against Local Plan and Mid-Cherwell Neighbourhood Plan policies to determine the sustainability and impacts including the visual impact, the impact on the landscape, natural and historic environment and on infrastructure and traffic generation.
- 1.7 The Council's Landscape, Environmental Health and Recreation & Leisure Officers did not raise objections to the proposals but requested either facility provision and/or payment of S106 planning obligation contributions in the event of planning permission being granted in order to mitigate the impacts of development (see **Appendix CDC 4**) [**Core Docs D11, D7 & D21**].
- 1.8 Statutory consultees Thames Water, the Environment Agency, Natural England, Nature Space Partnership, Thames Valley Police, the Oxfordshire Clinical Commissioning Group and Oxfordshire County Council as Local Highway Authority, Education Authority, Local Lead Flood Authority and Archaeologist raised no objection to the proposals but requested either facility provision and/or payment of S106 planning obligation contributions or S38 highway obligation contributions in the event of planning permission being granted in order to mitigate the impacts of development (see **Appendix CDC 5**) [**Core Docs D24, D6, D15, D16, D23, D18 & D19**].
- 1.9 The only third-party comment received came from Dorchester Living, owners and developers of the adjacent former RAF/USAF Upper Heyford airbase site and the Heyford Park new settlement to its south. Their objections to the proposals are summarised in paragraph 6.2 of the Planning Committee Report and are attached in full at **Appendix CDC 6** [**Core Docs D4**].
- 1.10 Cherwell District Council Officers reported the application to Planning Committee on 9th March 2023 [**Core Docs C6 & C7**]. Officers recommended to Members that, on balance, the application could be permitted as it was felt that whilst the land was not allocated for development as part of Policy Villages 5, Heyford Park had nevertheless been deemed a sustainable settlement location at which to accommodate some development and notwithstanding less than substantial heritage and landscape impacts and the need for supporting transport and community infrastructure, Officers concluded that such impacts could be appropriately mitigated and controlled by conditions and through appropriate S106 planning obligations. However, Committee Members did not accept that recommendation and debated that as the land was not identified for a development allocation and the District already had sufficient land allocated and/or permitted elsewhere sufficient to satisfy local needs, there was no essential need for this development and full weight ought to be afforded, in such circumstances, to adopted Development Plan policy.

- 1.11 Members therefore resolved [**Core Docs C8 & C9**] to refuse planning permission, on the basis that heritage and landscape harms would be caused and without appropriate mitigation and accompanying S106 facility provision and financial contributions to enhance transport and community infrastructure needed by such development, then permission ought to be refused for the following two reasons [**Core Docs C10**]:

1. The site is located on greenfield land outside the Policy Village 5 allocation, therefore within an area of open countryside separate from the built-up area of Heyford Park. As a result, the development would have a poor and incongruous relationship with the form and character of Heyford Park, by reason of the site's general openness. The site's relationship to the RAF Upper Heyford Conservation Area and the views into and out of the Conservation Area would cause harm to the setting of designated heritage assets. Such environmental harm is considered to be less than substantial, but the harm caused is not outweighed by the public social and economic benefits. In addition, the Council is able to demonstrate a 5.4-year housing land supply, and therefore the housing strategies in the Local Plan are up to date. It is considered that the development of this site would conflict with the adopted policies in the Local Plan to which substantial weight should be attached. The principle of this development is therefore unacceptable, as contrary to Policies PSD1, ESD1, ESD13, ESD15, and Policy Villages 5 of the Cherwell Local Plan 2011-2031, Policy PD4 of the Mid Cherwell Neighbourhood Plan, Saved Policies C8, C30, C33 and H18 of the Cherwell Local Plan 1996 and Government Guidance in the National Planning Policy Framework.

2. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions or transport mitigation required as a result of the development and necessary to ensure modal shift to sustainable transport modes and make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and workers and contrary to policy INF 1 of the Cherwell Local Plan 2015, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.

- 1.12 The Council's evidence will be provided by Dr Nicholas Doggett (BA Ph.D Cert. Archaeol FSA MClfA IHBC), Jon Goodall (MA (Cantab) MSc), and myself.
- 1.13 Dr Nicholas Doggett, Managing Director of Asset Heritage Consulting Limited will provide evidence on Heritage matters [**Core Docs E20**].
- 1.14 Jon Goodall, Director of the Strategic Planning Research Unit at DLP Planning Limited will provide evidence in relation to the Council's Five-Year Housing Land Supply position [**Core Docs E18**].
- 1.15 My evidence will cover both Landscape [**Core Docs E19**] and Planning matters [**Core Docs E21**]. It will focus on the areas of difference between the Council and Appellant and will summarise the planning policies relevant to this appeal. I will provide the overall planning assessment and balance and will consider whether there are relevant circumstances that outweigh the appeal proposal's clear harmful impacts and non-compliance with planning policy.

2. APPEAL PROPOSAL

- 2.1 The proposal seeks outline planning consent for the development of the site up to 230 new dwellings, vehicular access off Camp Road and all associated works. All matters are reserved for subsequent approval other than access.
- 2.2 Vehicle access to the proposed development would be provided via a new priority T-junction off Camp Road, located approximately 125m east of the existing Larsen Road junction and 160m west of Chilgrove Drive.
- 2.3 It is suggested in the planning application submission that the proposed development would comprise 150 open market houses and 80 affordable dwellings comprising a mix of 1, 2, 3 & 4/4+ bedroom homes. The Supporting Planning Statement [**Core Docs B3**] indicatively suggested in Table 4.1 that market dwellings would comprise: 6 x 1-bed; 38 x 2-bed; 70 x 3-bed; and 36 x 4/4+-beds; and affordable dwellings would comprise: 21 x 1-bed; 27 x 2-bed; 28 x 3-bed; and 4 x 4/4+-beds, split up into two areas with higher density plots averaging up to 45dph condensed into the central portion of the eastern land parcel with the remainder developed at densities up to 40dph [**Core Docs A7**].
- 2.4 A large part of the western portion of the site and in approximate 10-15m-wide strips all around the site would be indicatively reserved for public open space, including locally equipped areas of play, landscape planting and attenuation for the proposed drainage strategy [**Core Docs A4, A8, A9 & A10**].
- 2.5 The Appellant proposes that the site would provide 35% affordable housing and proposes to achieve a net gain in habitat units of 12.37% and a net gain of 38.26% in hedgerow units.
- 2.6 Subsequent to the Council's refusal decision on 31 March 2023 and as part of the Appellant's duplicate application submission (Ref: 23/01503/OUT), which the Council declined to determine [**Core Docs C11**], a draft revised indicative Land Use Parameters Plan (Ref: 374 P01 Rev A) was submitted to the LPA's Conservation Officer on 24 August 2023 for comment. It suggested a potential greater separation area between the northern edges of the proposed development and the adjoining southern boundary to the RAF Upper Heyford Conservation Area, immediately to the north. That revised illustrative draft plan suggested a widened 32m-38m landscape buffer could be maintained between the Conservation Area boundary and the proposed development. The claimed intention was "*to provide a different character and lower density to the NW field parcel than the other parcels*". No other detail was provided at the time or since as to how development densities elsewhere might be impacted or any potential impact on the overall number of dwellings that might be accommodated on the site. The CDC Conservation Officer responded [**Core Docs D3.B**] by saying that such an amendment would likely reduce the extent of less than substantial harm impacting upon the Conservation Area from the proposed development.

3. SITE AND SURROUNDINGS

- 3.1 The appeal site comprises 11.68ha of agricultural pastoral farmland. It is located outside the defined settlement boundary of Heyford Park (to the west and north), in the open countryside. It is unallocated land and has never previously been developed.
- 3.2 The site is irregularly shaped and comprises two fields separated by a hedgerow and post and wire fencing. The boundary of the site to the south with Camp Road and to the east with Chilgrove Drive comprises a mixture of hedgerows and trees. The land to the west is currently undeveloped but has the benefit of planning permission for the construction of 120 dwellings (Refs: 15/01357/F & 21/03523/OUT) and with another alternative proposal to develop the land instead for 126 dwellings (Ref: 22/03063/F) about to be considered by the Council's Planning Committee in December. That land to the west is separated from the appeal site by a small brook with mature hedgerow and occasional trees alongside.
- 3.3 The ground undulates within the site, and has several green features, including ponds and a watercourse (Leys Farm Ditch) towards its western edge. The former RAF/USAF Upper Heyford airfield, which is a designated Conservation Area that contains two Scheduled Monuments and numerous designated and non-designated heritage assets, is located immediately to the north. The land slopes downward gently from the eastern boundary at circa. 77-78m AOD to the western boundary, at circa. 65m AOD.
- 3.4 The eastern boundary of the site runs parallel with Chilgrove Drive (which prior to formation of the airbase in 1918 originally formed part of PRow Ref: 422/3/10 that extends south of Camp Road to the west of the woodland known as The Heath). That bridleway connects further south, beyond the B4030, with the ancient Iron Age byway of Aves Ditch (PRow Ref: 289/1/10). Aves Ditch runs on a north-south alignment along what is now the Parish boundary and originally extended between Kirtlington to the south, at the junction with the Roman road of Akeman Street, and Fritwell to the north, through the former airbase and along the routes of what are now Chilgrove Drive at Heyford Park and Raghouse Lane at Fritwell. Extensive open farmland lies to the east beyond Chilgrove Drive and to the south beyond Camp Road.
- 3.5 The appeal site, and the surrounding fields, are characterised by open grassland, mature hedgerows, and several mature trees. It is in this context, that the site appears not to be connected to the existing urban area and reads as being an attractive pastoral landscape that contributes to the open rural setting of Heyford Park and the general openness and setting to the RAF Upper Heyford Conservation Area.
- 3.6 The site is currently accessed via a field gate from Camp Road, a road which runs east-west through the village of Heyford Park and connects with the B430 to the east (with the M40 beyond) and to Station Road in Upper Heyford to the west, which then connects with the B4030 to the south in Lower Heyford.
- 3.7 Camp Road, as it approaches the eastern part of Heyford Park and the former airbase, is framed by mature hedging and trees on either side. The hedge has gaps to the north, providing significant views into the open countryside (including the appeal site) and across towards the former airbase.

3.8 There is a distinct character change along this part of Camp Road when the visitor leaves the countryside behind and enters the village. In fact, the character change along this part of Camp Road is three-fold: it changes from the pastoral nature of the open countryside to a rural hinterland area where views are afforded across open fields towards the built edge of the village and some of the built heritage features on the former airbase before moving into the built up, urban area of the village. In short, this part of the countryside serves as a visually significant landscape buffer.

Views across appeal site north from Camp Road and northwest from Chilgrove Drive



View southeast across the open farmland to the east of Chilgrove Drive from the north end of Chilgrove Drive



Views west into the developed edge of Heyford Park from Camp Road



4. SITE & SURROUNDINGS PLANNING HISTORY

4.1 The appeal site has not previously been the subject of any formal planning application for development. However, as referenced in Section 4 of the Planning SoCG, the appeal proposals were the subject of Pre-Application discussions (Ref: 21/01745/PREAPP) [**Core Docs C5**] and the land has also been promoted for development as part of the Local Plan review process.

4.2 Whilst no formal advice was issued by Officers in response to the Pre-Application submission because the subsequent formal application that is now the subject of this appeal was submitted, Officers had met with the landowners, their agents and masterplanners on site and had provided the following informal advice:

The site is not allocated for development in the adopted Local Plan and lies beyond the planned built-up limits of Heyford Park in open countryside;

At the time of the meeting, the Council was not able to demonstrate a deliverable five-year housing land supply, so the 'tilted balance' in NPPF Para.11d) would be applicable in any consideration;

The masterplan proposals should not undermine Policy Villages 5 development principles;

The proposals would need to be assessed against adopted Development Plan policies (i.e., Local Plan and Neighbourhood Plan) to determine potential sustainability and likely impacts upon landscape, natural and historic environment and on community and transport infrastructure and traffic generation.

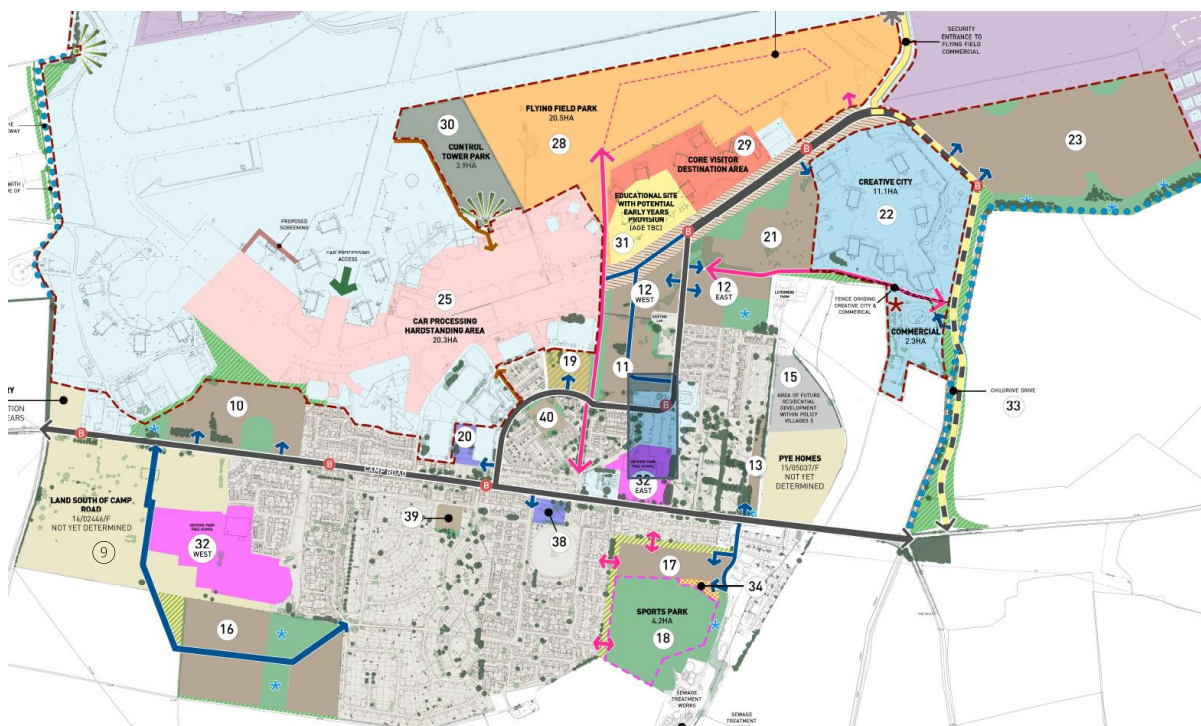
4.3 Other development proposals in the vicinity were referenced in the Planning Committee report and are summarised below:

15/00474/OUT – An outline application, which was subsequently withdrawn prior to determination, for demolition of the southern bomb stores and associated structures on the former airbase (immediately to the north of this appeal site) and redevelopment for employment purposes comprising up to 26,000m² of B1 uses, 9,000m² B2 uses and 30,000m² B8 uses with associated developments and access via Chilgrove Drive;

15/01357/F & 21/03523/OUT – A full application for 89 dwellings plus public open space and access from Camp Road, plus an outline application for a further 31 dwellings as a phase 2 to development by Pye Homes (on land immediately west of this appeal site) which were subsequently granted planning permission in September 2023 alongside S106 planning obligation agreements; and

22/03063/F – A full application by Barratt/David Wilson Homes for an alternative development of 126 dwellings on the same site previously proposed by Pye Homes, which is recommended for approval to the Council Planning Committee in December, subject to the prior completion of a satisfactory S106.

4.4 Other committed development at Heyford Park is shown on the annotated extract plan below, which is reproduced from the parameters plan approved under Ref: 18/00825/HYBRID [**Core Docs N5**].



Parcel 9 – 296 dwellings approved under 16/02446/F as phases 9A - 9G, 54 built and occupied in phases 9A and 9B. 242 remain to be constructed in phases 9C - 9G during 2023-2027.

Parcel 10 – 138 dwellings approved under 22/02255/REM as a phase 10 development. All currently under construction and due for occupation by end 2024.

Part Parcel 15 and land south of Parcel 15 and east of Parcel 13 – 120 dwellings approved to Pye Homes under 15/01357/F and 21/03523/OUT and about to be approved instead for 126 dwellings to David Wilson Homes under 22/03063/F. Likely due for occupation 2025-2027.

Parcels 13, 17, 18 and 34 all to be developed as a phase 11 development with a total of 68 dwellings to be constructed and occupied during 2025-2026 (6 on Parcel 13 and 62 more on Parcel 17 alongside new community, play, sports and orchard facilities (Parcels 18 & 34).

Parcels 11 and 39 to be developed as a phase 12 development with a total of 97 dwellings (84 and 13 dwellings respectively on the two parcels) due for occupation during 2025-2027.

Parcel 16 to be developed for 178 dwellings as a phase 13 development. Due for occupation between 2025-2028.

Parcels 12 and 40 to be developed as phase 14 development with 123 and 27 dwellings due for occupation during 2027-2029.

Parcel 21 to be developed as phase 15 development with 122 dwellings due for occupation during 2029-2031.

Parcel 23 to be developed as phase 16 development with 430 dwellings due for occupation between 2026-2031+.

5. PLANNING POLICIES

- 5.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.2 The Cherwell Local Plan 2011-2031 - Part 1 ('CLP 2015') [**Core Docs G1**] was formally adopted by Cherwell District Council on 20th July 2015 and provides the Strategic Planning Policy Framework for the District to 2031 alongside the Cherwell Local Plan 2011-2031 Part 1 Partial Review – Oxford's Unmet Housing Need [**Core Docs G3**] (which relates solely to Oxford City's unmet housing needs that are being accommodated in former Green Belt land around the city within the southern extremity of Cherwell District) and, for this part of the District, the Mid Cherwell Neighbourhood Plan 2018-2031 ('MCNP 2019'), Made May 2019 [**Core Docs G4**].
- 5.3 The CLP 2015 replaced several 'saved' policies of the adopted Cherwell Local Plan 1996 ('CLP 1996') [**Core Docs G2**], although many of its policies are retained and remain part of the Development Plan.
- 5.4 The CLP 2015 sets out the spatial strategy and strategic policies for the District to deliver sustainable development. It identifies the number of new homes required up to 2031 and the number of jobs to be provided in the area. It also makes provision for retail, leisure and commercial development, and the infrastructure needed to support them.
- 5.5 The Cherwell Local Plan 2011-2031 (Part 1) Partial Review, which was adopted on the 7 September 2020, sets out the housing requirement, in adopted strategic policies, for part of Oxford's 'unmet' needs in an area that had previously been designated part of Oxford's Green Belt within Cherwell District.
- 5.6 The MCNP 2019 sets out greater policy guidance in respect to twelve parishes in the centre of Cherwell District, namely: Ardley with Fewcott, Duns Tew, Fritwell, Kirtlington, Middleton Stoney, Middle Aston, North Aston and Steeple Aston, Somerton and Lower Heyford, Upper Heyford and the new parish of Upper Heyford.
- 5.7 The reasons for refusal identify conflict with the following CLP 2015 policies, 'saved' policy of the Cherwell Local Plan 1996 ('CLP 1996') and MCNP 2019 policy:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- PSD1: Presumption in Favour of Sustainable Development
- ESD1: Mitigating & Adapting to Climate Change
- ESD13: Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- Villages 5: Former RAF Upper Heyford
- Policy INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8: Sporadic Development in the Open Countryside

- C30: Design Control
- C33: Retaining Important Undeveloped Gaps
- H18: New dwellings in the countryside

MID CHERWELL NEIGHBOURHOOD PLAN 2019 POLICY (MCNP 2019)

- PD4: Protection of Important Views & Vistas

Other relevant Policies to the determination of this appeal are set out in the Council’s Statement of Case.

Consistency of planning policies with the NPPF [Core Docs F1]

- 5.8 In 2022, the Council undertook a Regulation 10A review [**Core Docs G11**], the first since the Local Plan was adopted on 19 December 2016. Five-year reviews of Local Plans are required in accordance with Regulation 10A of the Town and Country (Local Planning) (England) Regulations 2012 (as amended) as well as paragraph 33 of the NPPF. Since publication of the review in December 2022 there has been no legal challenge to its findings and recommendations.
- 5.9 The review evaluated Local Plan policies for their consistency with National Policy, considering current evidence and any relevant changes in local circumstances. For ease of reference, I have set out the policies listed in the reasons for refusal to demonstrate compliance with the NPPF.

Development Plan Policy	Conclusions of the Regulation 10A Review: Consistency with the NPPF	My View: Consistency with the NPPF
<p>PSD 1 Presumption in Favour of Sustainable Development</p>	<p>The 2023 NPPF wording is somewhat different but, overall, the aims remain the same. The policy is generally consistent with the NPPF, and significant weight should be attached.</p>	<p>It is my view that Policy PSD1 of the Local Plan is consistent with the NPPF. It echoes the policies contained within the National Planning Policy Framework as it makes clear that the Council will always work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. It also states that planning applications that accord</p>

		<p>with the policies in this Local Plan (or other parts of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.</p> <p>Moreover, local circumstances do not indicate that the policy needs updating at this time. The emerging Local Plan Review will consider the approach to 2040.</p>
BSC 1 District Wide Housing Distribution	<p>New homes required in the period 2011-2031 are expected to be delivered in line with the requirements in the Local Plan policy. The Cherwell Local Plan Review 2040 process will determine if a new policy is required and reflect any changes to the planning system. New evidence including jointly prepared evidence for the now abandoned Oxfordshire Plan will inform the approach to the provision of new homes in the Local Plan Review. In the interim, Policy BSC1 will continue to be applied for plan making and 5-year land supply purposes. The policy is generally consistent with the NPPF, and local circumstances do not indicate that the policy needs updating at this time. The emerging Local Plan Review will consider the distribution of housing across the District in the period 2020 to 2040.</p>	<p>My view is that, for the reasons set out in paragraphs 5.10 to 5.16 below, this is an up-to-date policy which is compliant with the NPPF insofar as its objectives of significantly boosting the supply of homes and ensuring sufficient land comes forward in sustainable locations are concerned. It is only out of date in respect to specific housing numbers referenced, due to the necessary change to applying the standard methodology for the assessment of local housing need.</p>
Villages 5 Former RAF Upper Heyford	<p>The 2015 Plan policy is generally consistent with the NPPF and local circumstances do not indicate that the policy needs updating at this time as needs to 2030 are already provided for.</p>	<p>The NPPF states (para.79) to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.</p>

	<p>The emerging Local Plan Review will consider the approach to development in the District's villages between 2020 to 2040.</p>	<p>Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.</p> <p>Policies Villages 1 and 2 identify several villages across the District able to accommodate a limited amount of development (cumulatively more than 750 dwellings) and policy Villages 5 identifies a separate 520ha of land at the former RAF Upper Heyford airbase to accommodate a settlement of about 2,361 dwellings and associated other development on land that is largely previously developed, which is generally consistent with Section 5 of the NPPF.</p> <p>The criteria referenced in this policy is generally consistent with the NPPF at paragraphs 78-80 because it promotes development, which is found to be sustainable, in rural areas.</p> <p>Neither the policy nor the NPPF advocate growth at settlements that are remote and/or without facilities and services that would render them unsustainable.</p>
<p>ESD1 Mitigating and Adapting to Climate Change</p>	<p>The 2015 Plan policy is generally consistent with Section 14 of the NPPF and local circumstances do not indicate that the policy needs updating at this time.</p>	<p>The criteria referenced in this policy is generally consistent with the NPPF at paragraphs 157-169 because it promotes development, which is</p>

	The emerging Local Plan Review will consider the approach to development in the District's villages, including Heyford Park, to 2040.	found to be sustainable, in rural areas.
ESD 13 Local Landscape Protection and Enhancement	<p>The 2015 Plan policy remains effective in supporting the protection and enhancement of the landscape in the decision-making process.</p> <p>The policy is generally consistent with the NPPF and local circumstances do not indicate that the policy needs updating at this time. The emerging Local Plan Review will consider the approach to local landscape protection to 2040.</p>	<p>Policy ESD13 is in compliance with the NPPF because it requires development to:</p> <ul style="list-style-type: none"> - respect and enhance local landscape character (reflective of paras 8.c, 20, 112, 130.c, and 174 of the NPPF), -protect the landscape by making clear that development would not be permitted if it would, inter alia cause undue visual intrusion into open countryside, cause undue harm to important natural landscape features and topography, or be inconsistent with local character (in compliance with the purpose of paragraphs 20, 112, 130.c, and 174 of the NPPF).
ESD 15 The Character of the Built and Historic Environment	<p>The 2015 Plan policy is generally consistent with the NPPF, and local circumstances do not indicate that the policy needs updating at this time.</p> <p>The emerging Local Plan Review will consider the approach to the character of the built and historic environment to 2040.</p>	<p>There is compliance and consistency with the NPPF, in particular Chapters 12 and 15, because it:</p> <ul style="list-style-type: none"> -sets out requirements to achieve good quality and design which is sensitively located, makes efficient use of land and conserves and seeks to enhance designated and non-designated heritage assets.
INF 1 Infrastructure	The 2015 Plan policy is generally consistent with the NPPF, and local circumstances do not	This policy, supported by the published Developer Contributions SPD, is

	<p>indicate that the policy needs updating at this time.</p> <p>The emerging Local Plan Review will consider the approach to securing infrastructure necessary to support new development to 2040.</p>	<p>consistent with the NPPF and the CIL Regs.</p>
C8 Sporadic Development in the Open Countryside	<p>The saved 1996 Plan policy is generally consistent with the NPPF, and local circumstances do not indicate that the policy needs updating at this time.</p> <p>The emerging Local Plan Review will consider the approach to protecting countryside for its own sake from unsustainable development to 2040.</p>	<p>There is compliance and consistency with the NPPF, in particular Chapters 2 and 12 and paragraph 80 in Chapter 5.</p>
C30 Design Control	<p>The saved 1996 Plan policy is generally consistent with the NPPF, and local circumstances do not indicate that the policy needs updating at this time.</p> <p>The emerging Local Plan Review will consider the approach to ensuring high quality development to 2040.</p>	<p>There is compliance and consistency with the NPPF, in particular Chapters 12 and 15.</p>
C33 Important Undeveloped Gaps	<p>The saved 1996 Plan policy is generally consistent with the NPPF, and local circumstances do not indicate that the policy needs updating at this time.</p> <p>The emerging Local Plan Review will consider the approach to</p>	<p>There is compliance and consistency with the NPPF, in particular paragraphs 8c) and 174.</p>
H18 New Dwellings in the Countryside	<p>The saved 1996 Plan policy is generally consistent with the NPPF, and local circumstances do not indicate that the policy needs updating at this time.</p> <p>The emerging Local Plan Review will consider the approach to protecting countryside for its own sake from unsustainable development to 2040</p>	<p>There is compliance and consistency with the NPPF, in particular paragraphs 78-80 in Chapter 5 and Chapters 12 and 15.</p>
PD4 Protection of Important Views & Vistas	<p>The 2019 Neighbourhood Plan policy is generally consistent with the NPPF, and local</p>	<p>There is compliance and consistency with the 2015 Local Plan and with</p>

	<p>circumstances do not indicate that the policy needs updating at this time.</p>	<p>the NPPF, in particular paragraphs 8c) and 174.</p>
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- 5.10 The review shows that almost seven years on the Local Plan Part 1 (and the Local Plan Partial Review) plus the 2019 made Neighbourhood Plan for Mid Cherwell continue to provide a suitable framework for development in Cherwell District that is in general conformity with National Policy.
- 5.11 The review concluded that the housing requirement in the Development Plan requires updating. To this end, new evidence, in the form of Housing and Employment Needs Assessment (HENA) 2022 [**Core Docs H13 & 14**], was required to provide up-to-date evidence of housing need. This document provides an assessment materially different to that in the 2014 Strategic Housing Market Assessment (SHMA) [**Core Docs I3-I5**]. It indicates that the 2014 SHMA is now out of date. As the housing requirement in the adopted strategic policies in the 2015 Local Plan is based on the 2014 SHMA, it further indicates that strategic policy BSC1 does, in the words of NPPF para 74 and footnote 39, require updating.
- 5.12 Paragraphs 16, 17 and 18 of the Council’s Housing Land Supply update (February 2023) [**Core Docs I1**] explains how it is appropriate to apply the standard methodology for the assessment of local housing need in Cherwell for the purpose of calculating the five-year housing land supply.
- “16. Since the publication of the 2021 AMR, there has been a material change in circumstances to warrant a change to the standard method for the purpose of assessing housing land supply for Cherwell.*
- 17. In December 2022 the Council published a Housing and Economic Needs Assessment (HENA) produced jointly with Oxford City Council to inform their respective Local Plan processes. THE HENA considers the Oxfordshire’s Functional Economic Market Area (FEMA) and the Oxfordshire Housing Market Area (HMA).*
- 18. The HENA is new up to date evidence of housing need, which provides an assessment of housing need which is materially different to that in the 2014 SHMA. It indicates that the 2014 SHMA is now out of date. This is the conclusion of a new ‘Regulation 10A’ review of the strategic policies in the Cherwell Local Plan 2011-2031 presented to the Council’s Executive on 6 February 2022. As the housing requirement in the adopted strategic policies in the 2015 Local Plan is based on the 2014 SHMA, it further indicates that these strategic policies do, in the words of NPPF para 74 and footnote 39, require updating. 19. In view of these circumstances, it is appropriate to apply the standard methodology for the assessment of local housing need for Cherwell for the purpose of calculating the five-year housing land supply.”*
- 5.13 However, policy BSC1 is generally consistent with the NPPF and its objectives in paragraph 60 of significantly boosting the supply of homes and ensuring sufficient land comes forward in sustainable locations where it is needed. Therefore, significant weight should be attached. This is also a requirement of policy ESD1 (Mitigating and Adapting to Climate Change) which relates to mitigating climate change distributing growth to the most sustainable locations as defined in this Local Plan.

- 5.14 The Council's latest Annual Monitoring Report (AMR) [**Core Docs I2**] shows how the Local Plan, as a whole, is continuing to deliver a high level of growth consistent with the overall plan trajectory. The Council continues to deliver against the NPPF aim of significantly boosting the supply of homes. A significant number of planning permissions have been granted on the Council's allocated sites and development continues to be delivered.
- 5.15 The Council's latest AMR shows that the Council has met the policy yearly target with 1,175 housing completions during 2021/22. The District is experiencing a high level of growth and the policy continues to provide a supply of development land.
- 5.16 The Council has exceeded the housing delivery test published by the Government (latest DLUHC publication, 14 January 2022) [**Core Docs F5**].
- 5.17 The housing requirement will be set through the emerging Local Plan Review 2040 [**Core Docs H1**] which will consider the distribution and mix of housing across the District. The new planned for housing will be established through this process. The Regulation 18 consultation process for the 'Local Plan Review 2040 (LPR)' commenced on the 22 September 2023. Paragraph 48 of the NPPF states that:
- “Local planning authorities may give weight to relevant policies in emerging plans according to: a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given); b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).”*
- 5.18 The weight afforded to different policies is always a matter for the decision maker, and in the case of the Draft Cherwell Local Plan Review, this weight should be determined in line with NPPF para 48, as set out above. Policies will generally gain weight as they progress through the process of consultation and examination, particularly where they do not attract objections. Given the early stage of preparation of the Draft Cherwell Local Plan Review and the lack of consideration to the many comments that are now being submitted, it is considered that only very limited weight may be given to the policies therein.
- 5.19 In effect, and because the LPR has not been through an Examination in Public, there is very limited weight that can be given to it; because the extent and nature of any objections (or whether any objections are made by Statutory Consultees) to policies and allocations is not yet known. This will probably not become clear until the summer of 2024.
- 5.20 In short, the Development Plan is up-to-date and contains a clear strategy identifying where housing should go. The policies in the plan are sound and consistent with National Planning policy and both Local Plan Part 1 and its Partial Review and the Neighbourhood Plan are considered to be up to date.

Supplementary Planning Documents

- 5.21 The Council has set out detailed guidance of its approach to planning obligations in the Developer Contributions Supplementary Planning Document (SPD) [**Core Docs G6**] which was formally adopted in February 2018, in accordance with the tests set out

in the CIL Regulations and the NPPF. Further information will be set out in the Council's CIL Reg Compliance Statement.

- 5.22 The Cherwell Residential Design Guide SPD 2018 seeks to ensure that the quality of design across the district is raised, ensuring a legacy of successful places for future generations to enjoy. *

The National Planning Policy Framework (NPPF) [Core Docs F1]

- 5.23 The NPPF defines "sustainable development" in paragraphs 7 to 10 and is clear that achieving such development has three overarching objectives: economic, social, and environmental. These objectives are:

*a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

*b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

*c) **an environmental objective** – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

- 5.24 Paragraph 9 confirms these objectives are to:

"Be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area".

- 5.25 Paragraph 10 states:

"So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11)".

- 5.26 Paragraph 11 sets out a presumption in favour of sustainable development. Development that accords with an up-to-date plan should be approved, and development that conflicts with an up-to-date plan should be refused unless material considerations indicate otherwise.

- 5.27 Paragraph 11 sets out a 'tilted balance' test. This states that where there are no relevant development plan policies, or policies which are most important for determining the application are out of date, permission should be granted unless:

- Specific policies in the Framework indicate that development should be refused; or

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 5.28 Footnote 8 of the NPPF advises housing policies can be considered out of date where an authority cannot demonstrate a 5-year land supply of deliverable housing sites (with the appropriate buffer) or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.
- 5.29 Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development set out in paragraph 11 does not change the statutory status of the Development Plan as the starting point for decision making.
- 5.30 Paragraph 12 also clarifies that in the event a planning application conflicts with an up-to-date Development Plan (including any Neighbourhood Plans that form part of the Development Plan), permission should not usually be granted. It confirms that Local Planning Authorities may take decisions that depart from an up-to-date Development Plan but only if material considerations in a case indicate otherwise.
- 5.31 As explained in Jon Goodall's Proof of Evidence [**Core Docs E18**] and the Council's Housing Land Supply update (February 2023) [**Core Docs I1**], this authority can demonstrate a five-year supply of deliverable housing sites in the District (which is the relevant NPPF test (footnote 8)). As such, the tilted balance as set out at paragraph 11d) is not engaged.
- 5.32 Paragraph 15 confirms that the planning system should genuinely be plan led, where up to date plans should provide a positive vision for the future of each area through a framework for addressing housing needs and other economic, social, and environmental priorities.
- 5.33 Paragraph 20 confirms strategic policies should set out an overall strategy for the pattern, scale, and design quality of places and to make sufficient provision for housing, infrastructure, community facilities and conservation and enhancement of the natural, built, and historic environment.
- 5.34 Paragraph 33 confirms the requirement for plans to be reviewed at least once every five years and be updated as necessary, taking account of changing circumstances affecting the area, or any relevant changes in national policy.
- 5.35 Paragraph 34 advises that:
- “Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure”.*
- 5.36 Paragraph 47 acknowledges the legal requirement for applications for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.37 Paragraph 60 states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed.

- 5.38 Paragraph 61 sets out the approach to identifying housing land supply, including using the standard method to determine the minimum number of homes needed.
- 5.39 Paragraph 92 confirms planning decisions should aim to achieve healthy, inclusive, and safe places which promote social interaction, are safe and accessible, and enable and support healthy lifestyles including access to local shops and sports facilities and layouts that encourage walking and cycling.
- 5.40 Paragraph 93 sets out the approach to providing social, recreational, and cultural facilities and services and that planning decisions should ensure an integrated approach to considering the location of housing.
- 5.41 A section of the NPPF (paragraphs 104 to 113) is concerned with promoting sustainable transport. Transport issues should be considered from the earliest stages of development proposals (paragraph 104) and development should only be prevented or refused if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe (Paragraph 111).
- 5.42 Parts a) and c) of Paragraph 130 require planning policies and decisions to ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development*
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)*
- 5.43 Paragraph 174 confirms planning decisions should contribute to and enhance the natural and local environment by:
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
 - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- 5.44 Paragraph 134 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

6. EVALUATION

- 6.1 In my opinion, the main planning issues relevant to this appeal (arising from the reasons for refusal and case management conference) are:
- 1) The effect of the proposal on the character and appearance of the area;
 - 2) The effect of the proposal on the setting of protected heritage assets;
 - 3) The Council's five-year housing land supply position;
 - 4) The provision of infrastructure contributions required as a result of development and whether they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development; and
 - 5) The overall planning balances.
- 6.2 My proof of evidence sets out background information relevant to these matters and refers to the evidence of the Council's Consultant's on specific topics. I then go on to set out the Council's detailed evidence in relation to the balance of planning considerations relevant to this appeal.

Issue 1: The effect of the proposal on the character and appearance of the area

The principle

- 6.3 As the Local Plan Part 1 covers the period 2011 - 2031 a proportion of the overall growth proposed for the area has already taken place. There remain significant commitments to a wide variety of development within the District, including new housing, particularly at Heyford Park where 1,537 consented dwellings remain to be built within the Policy Villages 5 allocation. As at 1st October 2023, the Council's latest quarterly monitoring of completions at Heyford Park, as confirmed by Dorchester Living (the principal landowner/developer at Heyford Park), reveal that in addition to the conversion and restoration of 267 former military homes, a further 776 dwellings have been built and occupied in accordance with planning permissions (Refs: 10/01642/OUT, 16/02446/F and 19/00446/F as subsequently modified) and their respective S106 planning obligation agreements. In addition, a further 60 dwellings on phase 5 (Refs: 13/01811/OUT & 16/00627/REM) and 43 more dwellings on phase 6 (Ref: 16/00263/F) were brought forward and have been occupied that were not envisaged in the original consents. This means that a total of 1,136 dwellings have thus far been built and occupied at Heyford Park in the last twelve years. The final phase 9 parcel of Stage 1 development is currently under construction (Ref: 16/02446/F) with 242 of the 296 dwellings approved still to be built and occupied over the next 5 years. The first element of the further 1,175 dwellings approved at Heyford Park under (Ref: 18/00825/HYBRID) on parcel phase 10 (Ref: 22/02255/REM), is currently being constructed, with 138 dwellings due to be occupied by the end of 2024. Full and reserved matters applications on the remaining 1,037 approved dwellings have yet to be submitted although Dorchester have indicated that they anticipate an application on their phase 11 development land (parcels 13 and 17) for 66 dwellings, plus a new community centre, sports pavilion, sports pitches, orchard and NEAP being submitted early in 2024. In addition to the Dorchester developments at Heyford Park, Pye Homes have secured consent for 120 dwellings (Refs: 15/01357/F & 21/03523/OUT) within the Policy Villages 5 allocation on land west of this appeal site.

- 6.4 The 1,537 consented dwellings at Heyford represents almost 2 years supply (1.97-years) of the District's entire requirement over a 5-year period. Within the five year period 2022-2027, Heyford is likely to deliver at least the 242 remaining dwellings under construction at phase 9, the 138 dwellings currently being built at phase 10 as well as the 6 dwellings at parcel 13 and 62 dwellings at parcel 17, (comprising the planned phase 11 developments), the 84 dwellings on parcel 11 and 13 dwellings on parcel 39 (the planned phase 12 developments) and the 120 dwellings recently approved on the land to the west of the appeal site, i.e., a total of at least 665 dwellings (representing 17% of the District's total 5-year needs of 3,896).
- 6.5 The Part 1 Local Plan takes account of existing commitments, proposes where new development should take place and sets criteria against which proposals for developments should be judged.
- 6.6 The Local Plan proposes an approach of generally concentrating housing growth in the most sustainable locations to mitigate development within the District on climate change, as opposed to spreading growth out too thinly across the whole district. The most sustainable locations are considered to be Bicester and then Banbury, although this does not mean that no growth will take place elsewhere. The Council recognises the role larger villages play (with a higher level of services than the smaller villages), such as the new settlement of Heyford Park and the Category A villages, and some limited growth is planned for within the Category A communities plus substantial growth (over 2,600 dwellings) is planned at Heyford Park.
- 6.7 Policies BSC1, Villages 1, Villages 2 and Villages 5 of the Local Plan formally set out the Council's spatial strategy/development hierarchy. Policies ESD1, ESD13 and ESD 15 seek to mitigate and adapt to Climate Change and protect the Council's Landscape and the character and appearance of the Built Environment.
- 6.8 Policy BSC1 seeks to deliver a wide choice of high-quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. Of the 22,840 homes to be delivered across the plan period, the majority (17,448) are to be directed to the two towns of Banbury and Bicester as the most sustainable locations. The remaining 5,392 dwellings (about 24% of the District total) are to be distributed across the rest of the district, with around 1,600 of the new dwellings (about 30% of the rural allocation) to be accommodated at Heyford Park, in addition to a further 761 dwellings that had already been approved there at the time the Plan was adopted.
- 6.9 According to Policy Villages 5 development should be accommodated within a designated development area of 520 hectares and the homes should be accompanied by all necessary supporting infrastructure, including primary and secondary education, community, recreational and employment facilities and enabling environmental improvements. In particular, the important Cold War heritage of the former airbase should be conserved. This policy then provides a detailed list of infrastructure needs and design and place-shaping criteria against which all development proposals will be assessed.
- 6.10 Of particular relevance to this proposal is the fact that the appeal site is excluded from the allocation area. The rationale for drawing the boundary to the 520ha site area was to limit development to those area that would avoid the most historically significant and sensitive parts of the site (second design criteria). The third design criteria references the need to keep development back from the northern edges of indicative development areas, in order to respect historic significance and character. Although not a Villages 5 allocation, the fourth design criterion is also of relevance insofar as it states that greenfield land releases will not be allowed to compromise necessary environmental

improvements and conservation of heritage interests. The ninth design criteria refers to highway measures necessary to mitigate the impact of traffic generated by development, through funding and/or physical works; and the tenth criteria references the need to plan for public transport provision to accompany planning applications. The sixteenth design criteria references environmental improvements within the site and of views to it and also the reopening of historic routes. Design criterion twenty-three states that new development should reflect high quality design that responds to the established character where this would preserve or enhance the appearance of the former RAF upper Heyford Conservation Area.

6.11 For completeness, I have set out the list of criteria referenced above in the table below with supporting commentary explaining whether each of those relevant criteria have been met.

Policy Village 5	Breach or Compliance
<p><i>Infrastructure Needs: Whether the development proposal delivers onsite provision or appropriate off-site financial contributions to:- education, health, open space, community facility, access and movement and utilities provision.</i></p>	<p><i>The appeal proposal only proposes to deliver recreational open space and facilities and landscaped public open space, including sustainable drainage facilities on site. All other infrastructure needs arising from development would need to be mitigated through off-site financial contributions. Unless or until contributions are made through S106 obligations, which all need to be CIL Reg.122 compliant, then development would be in breach.</i></p> <p>Does not comply until a S106 is agreed and all financial obligation are paid to ensure funding and implementation of all appropriate mitigation of impacts.</p>
<p><i>Second design criterion - Whether development is on allocated Policy Villages 5 land such that it avoids development on the most historically significant and sensitive parts of the site.</i></p>	<p>The proposal is beyond the Villages 5 allocation area on an area of greenfield land that abuts part of the southern boundary to the Conservation Area.</p> <p>Fails to comply.</p>
<p><i>Third design criterion - Whether development would be kept back from the northern edge of the indicative development areas.</i></p>	<p>The indicative plans that accompanied the appealed planning application only showed a narrow 10-11m separation distance from the edge of the Conservation Area. A subsequent revised plan that now accompanies the appeal shows a wider 30m separation distance.</p> <p>Failed to comply initially but would better comply through the revised indicative Masterplan, if adhered to, but would still have some harmful impact.</p>

<p><i>Fourth design criterion - Whether development of the greenfield land would compromise necessary environmental improvements and conservation of heritage interest.</i></p>	<p>The appeal proposal is not within the Policy Villages 5 allocation but as greenfield land on a sensitive eastern edge to development and immediately south of the Conservation Area it would compromise the conservation of heritage interest through less than substantial harm caused to the openness setting of the nearby heritage assets.</p> <p>Fails to comply.</p>
<p><i>Ninth design criterion - Whether measures to mitigate the impacts of traffic generated by development are in place.</i></p>	<p><i>The transport infrastructure needs arising from development would need to be mitigated through off-site financial contributions, as specified by the Local Highway Authority. Unless or until such contributions are made through S106 obligations, which all need to be CIL Reg.122 compliant, then development would be in breach. Such works already form obligations of the Rule 6 Party in connection with their programmed delivery of development at Heyford Park. The timing of delivery of such mitigation works appears to be dependent upon that third party.</i></p> <p>May comply, but the delivery of highway works necessary to mitigate the impacts of this development appears to be reliant upon a third party, which may impact upon any projected delivery of development on the appeal site.</p>
<p><i>Tenth design criterion - Whether public transport provision can be enhanced to encourage modal shift and more sustainable travel can be achieved in a timely manner to mitigate the appeal site's transport impacts.</i></p>	<p><i>As with criterion nine above, the transport infrastructure needs arising from development would need to be mitigated through off-site financial contributions, as specified by the Local Highway Authority. Unless or until such contributions are made through S106 obligations, which all need to be CIL Reg.122 compliant, then development would be in breach. Such works already form obligations of the Rule 6 Party in connection with their programmed delivery of development at Heyford Park. The timing of delivery of such mitigation works appears to be dependent upon that third party.</i></p> <p>May comply, but the delivery of public transport enhancements to mitigate the impacts of this development does not form part of the appeal proposal and appears to be reliant upon a third party.</p>

	<p>This may impact upon any projected delivery of homes on the appeal site.</p>
<p><i>Sixteenth design criterion - Whether environmental improvements within the site and views into it could be achieved and whether development could facilitate the reopening of historic routes.</i></p>	<p>Views into what is currently a greenfield site in open countryside with views afforded across to the former airbase would inevitably be harmfully impacted, which would affect both the rural setting of the settlement and the openness setting of the heritage assets of the RAF Upper Heyford Conservation Area. It could potentially facilitate the partial reopening of a historic route, i.e., an extension of the former Aves Ditch bridleway along Chilgrove Drive to the edge of the former airbase.</p> <p>Fails to comply in respect to views. Potential partial compliance in respect to the reopening of historic routes.</p>
<p><i>Twenty-third design criterion - Whether development would reflect high quality design that responds to established character where this would preserve or enhance the appearance of the former RAF Upper Heyford Conservation Area.</i></p>	<p>Development would not respond particularly well to the established character of what is and always has been an open greenfield site. The loss of that openness, which is an integral characteristic of the adjacent Conservation Area and the loss of the open views across the site towards the Conservation Area would fail to preserve or enhance the appearance of the former RAF Upper Heyford Conservation Area.</p> <p>Fails to comply.</p>

6.12 I note in paragraphs 6.6 - 6.8 of the Appellants Statement of Case that it is their intention to try and demonstrate that Development Plan policies ESD1, BSC1, Villages 1, C8 and H18 are all out of date by virtue of Cherwell District’s suggested inability to demonstrate a five year housing land supply and that the consequent engagement of NPPF para.11d) and Footnote 9’s ‘tilted balance’ are not disengaged or outweighed when considering compliance with the adopted Development Plan when read as a whole. The Council’s rebuttal to that argument is set out in detail in this respect in the Proof of evidence from Jon Goodall. Whilst the Council accepts that there has been some slight change since publication of its last Annual Monitoring Report in 2022 and its Housing Land Supply Statement of February 2023, the Council is confident that it still maintains a deliverable 5-year supply of housing land sufficient to meet District needs. That position was agreed recently in a Statement of Common Ground (SoCG) agreed with appellants at an appeal at North West Bicester for 500 homes by Firethorn Ref: APP/C3105/W/23/3315849 [**Core Docs I8**] and was also confirmed at another recent appeal decision for 30 homes by Hayfield Homes at Finmere Ref: APP/C3105/W/22/3309489 [**Core Docs I7**].

- 6.13 Looking at the Ambrosden, Launton and Tappers Farm Appeal decisions referred to in **[Core Docs M6, M1 and M14, respectively]**, it is accepted that there is no specific time dimension for the delivery of houses in Category A Villages listed in Policy Villages 2 or for that matter in Policy Villages 5 at Heyford Park, although I would make the point that presumably no such wording was included in the policy because the time period of the plan would, technically, serve as the time limit.
- 6.14 I also agree with the Appellant and the various Category A appeal decisions referenced that the policy is silent on the matter of the number of housing development(s) each Category A villages is expected to accommodate. However, allowing more growth in one Category A Village than another does not mean the Council intends that a small number of settlements provide the overwhelming majority of new housing, diluting the identity and character of a settlement in the process, whilst also causing harm to the landscape and views enjoyed from footpaths and cycleways. This is a point raised by Inspector Morgan, in paragraph 17 of her decision letter for the Chesterton Appeal (Ref: APP/C3105/W/15/3130576) **[Core Docs M13]**. She commented that if the level of development was distributed across the Category A villages on a pro rata basis, only a small amount would be delivered in Chesterton. Yet, she was concerned that had she allowed that scheme, which was for 45 units, and would have accounted for 12% of the 750 district-wide total, the proposal would have been disproportionate to one relatively small village.
- 6.15 With respect to Policy Villages 5 and Heyford Park, the Local Plan already envisages 1,600 (29.7%) of the 5,392 dwellings to be accommodated in the rural areas being provided at Heyford Park and by virtue of past consents within the Villages 5 policy area, the actual number will be significantly exceeded. Adding up to 230 more on the appeal site to what has already been approved would effectively render Heyford Park accommodating over 40% of the rural area need in Cherwell to 2031, which would be disproportionate.
- 6.16 It is understood that there is demand for new housing, particularly at Heyford Park and in the Category A villages from people who wish to enjoy the less urban and more rural environments that such villages offer whilst remaining in relatively close proximity to the towns. Yet, the Council has equal concern that too much growth will, through over-expansion of the settlement into the countryside, undermining the very character that make villages enjoyable to live in. This is also one of the reasons why considerable attention has been paid in the Local Plan to release generous amounts of housing land in the areas chosen through the site allocations process; and I note once more, this site has never been allocated for housing development.
- 6.17 Whilst Heyford Park and some Category A villages can absorb more development than others (due to their level of services and more sustainable locations), it would be unsustainable for one settlement to accommodate too much development, especially at a time when the Council has allocated enough housing to help meet the housing need. This is a point the Inspector made in The Tappers Farm (Bodicote) appeal decision letter **[Core Docs M14]** at paragraph 18, where the Inspector wrote:

“There will undoubtedly be a point where there will be a situation that will result in the material increase over the 750 dwellings figure and at that time there will be some planning harm arising from the figure being exceeded, for example harm to the overall locational strategy of new housing in the district. There is no substantive evidence before me to demonstrate that this is the case in this appeal. Clearly, when considering any subsequent schemes however, this matter will need to be carefully scrutinised.”

- 6.18 The Inspector for the Launton Appeal (APP/C3105/W/22/3301485) reached the same conclusion [**Core Docs M1**].
- 6.19 Since 2014 there had been a total of 706 completions (as of 31 March 2022) in Category A Villages with a further 101 units under construction but not completed at that time, giving a total of 804 dwellings which contribute to the Policy Villages 2 requirement of 750 dwellings. As of the same date there were an additional 270 units on sites with planning permission at Category A settlements although not yet started. The Policy Villages 2 requirement was therefore met and exceeded with 8 years of the Local Plan still to run.
- 6.20 With respect to Policy Villages 5 and as referenced above at paragraph 6.3 of this Proof, 1,136 of the 1,600 planned dwellings at Heyford Park have already been built and occupied (71%). Consent exists for a further 1,537 dwellings, which once built would result in 2,673 dwellings being accommodated whereas the Local Plan only envisaged a total of $741 + 1,600 = 2,341$. The over-supply of 332 dwellings amounts to 114% of the planned provision), so the Policy Villages 5 requirement is being met and significantly exceeded. The total figure already amounts to 35.8% of Cherwell's rural areas need and adding a further 230 dwellings would increase that figure to 40.1%.
- 6.21 Consequently, with 804 dwellings built out and occupied in the Category A villages under Policy Villages 2, with 1,136 dwellings built out and occupied at Heyford Park and 1,536 more dwellings approved in Heyford Park under Policy Villages 5, it is considered that the points made in the conclusions of the Launton and Tappers Farm inspectors, has been reached; where planning harm could be caused to the overall locational strategy of new housing in the district through further permissions at unsustainable locations irrespective of the Local Planning Authority's Housing Land Supply position. Those Appeal decisions were in 2019 and we are now in 2023 with additional permissions in place.
- 6.22 In the appeal cases for residential development at other Category A Villages such as Weston on the Green and Finmere [see **Core Docs M5 & M9**], the Inspectors consistently agreed that overprovision of the Policy Village 2 allocation could prejudice the sustainable growth strategy set out in the Development Plan and leave limited ability to respond to later changes in housing need in individual settlements. Dismissing this appeal proposal in respect to Policy Villages 5 would be consistent with these earlier appeal decisions, especially given the scale of this development, and the amount of development that has taken place since those decisions were issued.
- 6.23 Given the number of houses being delivered at Heyford Park under Policy Villages 5, this reduces the weight that should be given to the benefits of the new housing proposed under this policy by the Appellant.
- 6.24 Finally, for the avoidance of doubt, in my view, the cumulative exceedance of the planned 1,600 houses at Heyford Park once the 1,536 extant permissions are added to the 1,136 occupied dwellings at Heyford, the 230 houses proposed as part of this appeal scheme would lead to unconstrained growth in direct conflict with the Local Plan 2011-2031: Part 1 and defeat the purpose of its spatial strategy.

Impact on Landscape and Character

- 6.25 Whilst the appeal site is not a designated landscape area it does, as open countryside, have value as visual amenity from the public realm. Unsurprisingly, given that open countryside once built upon is lost forever, this amenity value is protected by both national and local planning policies, including, but not limited to, Policy Villages 5.
- 6.26 At national level, the NPPF, in paragraph 174 b) states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
- 6.27 Paragraph 130 c) of the NPPF requires policies and decisions to be sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 6.28 Paragraph 20 d) of the NPPF makes clear that as part of a Local Plan, the Councils' strategic policies should set out an overall strategy for the pattern, scale and design quality of places which includes the:
- “conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation”.*
- 6.29 Policy ESD13 of the Local Plan recognises the importance of protecting local landscape. This policy seeks *“opportunities to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats and where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows.”*
- 6.30 This policy also expects development to respect and enhance local landscape character and secure appropriate mitigation where damage to local landscape character cannot be avoided.
- 6.31 The final part of this policy is also clear that: *“Proposals will not be permitted if they would:*
- *Cause undue visual intrusion into the open countryside;*
 - *Cause undue harm to important natural landscape features and topography;*
 - *Be inconsistent with local character;*
 - *Impact on areas judged to have a high level of tranquillity;*
 - *Harm the setting of settlements, buildings, structures or other landmark features; or*
 - *Harm the historic value of the landscape.*
- 6.32 In short, the purpose of Local Plan policy ESD13 is to ensure that planning decisions respect the local landscape and that the key landscape qualities are, as a minimum, safeguarded. Any development that would result in material harm to the local landscape, particularly harm that is avoidable, cannot be considered to recognise or be sympathetic to the intrinsic beauty of the countryside and the local landscape setting, and would be in direct conflict with this policy and the NPPF.

- 6.33 ESD13 is supplemented by saved policies C8, C28 and C30 in the 1996 Cherwell Local Plan. Saved Policy C8 seeks to resist new sporadic development in the open countryside. Saved Policy C28 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Furthermore, saved Policy C30 states that control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 6.34 The site has a much stronger visual relationship with the surrounding open countryside than the built form of the village of Heyford Park. Once leaving the settlement along this eastern part of Camp Road, it is very clear to the walker/cyclist/driver that they have left an urban settlement and reached open countryside. The person does not have to go very far from the village to experience uninterrupted, attractive views of an open, gently undulating landscape.
- 6.35 The existing entrance to the appeal site, from Camp Road and from two other broad gaps in the hedges either side in Camp Road and Chilgrove Drive, afford deep views into the site and across towards the former RAF Upper Heyford Conservation Area beyond. The quality of openness washes all over the appeal site and these are views of particular importance to an appreciation of the village and its rural setting and also to the setting of the Conservation Area, whose character is integrally based upon its openness. Additionally, the rural nature of this part of Camp Road and the lanes as they extend east and south from the junction with Chilgrove Drive, which are all bounded by mature hedging and trees on either side, reinforces the feeling of being in the open countryside outside an urban settlement.
- 6.36 Building housing on this site, particularly on this scale would reduce the effectiveness of its role as an attractive landscape in an important position and remove its permanence. It would result in the urbanisation of open countryside and irrevocably alter the rural character of the area. In my humble opinion, it would be an incongruous addition. By contrast to the NPPF and the Local Plan policies, instead of protecting and recognising the intrinsic character and beauty of the countryside, it would significantly harm it.
- 6.37 Whilst the Council does not criticise the layout proposed on the indicative parameter and masterplans, save for its proposed proximity to the southern edge of the Conservation Area, the consequence of inserting it into the current landscape would not only remove more than half of the existing landscape character and beauty, but would also leave the open space provision (proposed as part of the layout) fulfilling a role, not as an expansive landscape, as at present, but as no more than a narrow adjunct to the built development of the large-scale housing estate.
- 6.38 Although the final layout is a Reserved Matter, in this context I cannot see how the appeal scheme would not appear as an obvious and distinct urban estate layout that would fail to relate positively to the landscape and the eastern entrance to Heyford Park. It would breach the Ley Farm Ditch (the planned eastern extent of the 520ha Policy Villages 5 allocation) and impose a new urban pattern. Moreover, any surrounding of the appeal site with new planting could have the effect of reinforcing the degree of visual distinction that it would have from the existing settlement and thus add to the material harm.

- 6.39 It is also noteworthy that, although Heyford Park has secured permission for numerous new dwellings in the past 8 years (with many more in the pipeline), this proposal for up to 230 houses is of significant size. Paragraph xviii, on page 13 of the Local Plan, clarifies that development sites with 100 houses or more are considered to be strategic sites. Therefore, at up to 230 houses, this appeal scheme is of a strategic scale, which, according to the Local Plan policies, are normally directed to Bicester and Banbury, and would be expected to come through the plan led process.
- 6.40 Approaching the appeal site from the west through Heyford Park, development on the appeal site, especially on this scale, would be less read against urban features in the backdrop sense, and more as a protrusion from the settlement. In short, it would appear as an awkward, incongruous bolt on, at odds with the local context and local and national policies, including policy ESD 15 which opens with: *“Successful design is founded upon an understanding and respect for an area’s unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design”*. The expanse of the development makes this material harm inevitable.
- 6.41 Overall, the site is not considered to be suitable for new housing development and the proposal would be contrary to national and local planning policy. This level of conflict weighs heavily in the determination of the case.

Issue 2: The effect of the proposal on the Setting of Protected Heritage Assets

- 6.42 The appeal site affects the setting of the RAF Upper Heyford Conservation Area, which borders its northern edge. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*.
- 6.43 Conservation Areas, Scheduled Monuments and Listed Buildings are designated heritage assets, and Paragraph 199 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be)*. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 6.44 Policy ESD15 highlights the importance of the character of the built and historic environment. This policy states, amongst other things, that successful design is founded upon an understanding and respect for an area’s unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. The policy continues by stating that new development proposals should, amongst other things, contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views. Development should also respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale, and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.

- 6.45 Policy PD4 of the Mid-Cherwell Neighbourhood Plan supplements ESD15 and seeks to protect important views and vistas. Proposals should not harm a Conservation Area, however, if there is harm, then the harm has to be outweighed by the benefits.
- 6.46 The site forms part of a parcel of land that was assessed in the HELAA (Feb 2018), when it was considered that the site could be developed without necessarily opening development further into the open countryside beyond.
- 6.47 The site does not form part of a Conservation Area but abuts along its northern boundary part of the southern boundary to the former RAF Upper Heyford Conservation Area, close to what were the southern bomb stores. Therefore, consideration must be had to its overall setting. The Council's Conservation Officer raised concerns that there would be a harmful impact to the setting of the Conservation Area given the close proximity. It was felt that the level of impact could be reduced if separation distances were increased and with modified layout and design. The overall harm to the heritage assets was considered to be less than substantial, which I concur with. Therefore, the public benefits of the proposal have to be weighed against the harm caused, in accordance with paragraph 202 of the NPPF.
- 6.48 A number of public benefits are suggested by the Appellant, including boosting the supply of housing for the locality, including affordable dwellings, although housing supply locally is not in short supply. The proposal would support economic growth. Although the heritage setting impact could be reduced at reserved matters, it would still inevitably lead to less than substantial harm through the loss of openness and loss of views to and from the Conservation Area. The public benefits already mentioned would not outweigh the harm caused to the designated and non-designated heritage assets.
- 6.49 Overall, the site is not considered to be suitable for new housing development and the proposal would be contrary to national and local planning policy. This level of conflict weighs heavily in the determination of the case.

Issue 3: Five Year Housing Land Supply

- 6.50 Cherwell District Council currently has a published Five-Year Housing Land supply position of 5.4 years. I understand that an updated position is due to be considered by the Council's Executive at a meeting on 4th December and that the papers for that meeting will be published on 24th November. At the time of writing, I do not know what the updated housing land supply position will be, but it may well necessitate an updated Statement of Common Ground being agreed. In the meantime, and in addition and distinct from the Council's own Five-Year Housing Land Supply, Cherwell District Council has reached an agreed position with Oxford City Council, and with neighbouring authorities West Oxfordshire District Council, South Oxfordshire District Council and the Vale of White Horse District Council, to help Oxford deliver its unmet housing need.
- 6.51 In reaching that agreed position, the Council prepared the Partial Review of the Local Plan which, having explored and assessed 147 sites around the district, including Bicester and its surrounding area, concluded that the best 'unmet need' sites that would support Oxford whilst not undermining Cherwell's own Spatial Strategy, would be around Kidlington, Yarnton and Begbroke within parts of the Green Belt on the immediate edge of Oxford city. These sites are known as PR sites.

6.52 The Partial Review 2031 has been through the rigour of an Examination in Public whereby it was supported by the Inspector, and then formally adopted on the 7th September 2020.

6.53 The Inspector, in his Report on the Examination of the Cherwell Local Plan 2011 - 2031 (Part 1) Partial Review – Oxford’s Unmet Housing Need [**Core Docs G3**], endorsed the Council’s strategy in helping Oxford deliver its unmet need whilst not undermining Cherwell’s own spatial strategy. In paragraphs 33 and 34 of that report, the Inspector commented:

“Informed by the evidence base, including the SA, and a consultation process, Options C to I (inclusive) were ruled out on the basis that they are too remote from Oxford to accommodate communities associated with the city; they are too far away from Oxford to be well-connected by public transport or walking or cycling, and therefore likely to result in increased use of the private car; more dispersed options provide less potential for infrastructure investment in terms, for example, of transport and education; and significant additional housing could not be built at Bicester, Banbury and RAF Upper Heyford before 2031 alongside major commitments already made in the adopted Local Plan 2015. On top of that, it was concluded that Options C to I (inclusive) would have a greater detrimental impact on the development strategy for the District set out in the Local Plan 2015.

Notwithstanding that they are largely located in the Oxford Green Belt, Options A and B were considered by the Council to be much better solutions to meeting the unmet need. They were identified as such largely because of their proximity to Oxford with public transport links already available and ready potential to maximise its use, alongside cycling and walking, thereby creating travel patterns that are not reliant on the private car. Moreover, these areas already have a social and economic relationship with the city that can be bolstered. Importantly too, these options would allow affordable homes to be provided to meet Oxford’s needs close to the source of that need. Finally, the proximity to Oxford and separation from other centres of population in Cherwell means that Options A and B would be unlikely to significantly undermine the development strategy in the Local Plan 2015.”

6.54 In paragraph 43, the Inspector concluded:

“Taking all these points together, the vision and spatial strategy of the Plan have been positively prepared; they are justified; and likely to be effective. “

6.55 For these reasons, and those set out in Jon Goodall’s Five-Year Housing Land Supply Proof of Evidence [**Core Docs E18**], the Council’s housing vision and strategy to have a separate five-year housing land supply and Oxford unmet housing need supply, is in line with the NPPF and the associated guidance.

6.56 The principle of this approach has been formally accepted by the Appellants (Hayfield Homes) for the appeal at Land West of Chinalls Close, Adjacent to Banbury Road, Finmere ² (Ref: APP/C3105/W/22/3309489) [**Core Docs I7**] (see the Statement of Common Ground).

² It is also noteworthy that the appellants, who had argued (in their Statement of Case) that the Council’s housing land supply position was 4.76 years, formally agreed, at the hearing on the 17th October 2023, that the Council does currently have a five year housing land supply.

- 6.57 I note in the Appellants Statement of Case (para 6.29) for this Camp Road, Heyford Park appeal, reference has been made to the Council having, on the 1st April 2022, a deliverable supply 0.2 years (80 units) towards Oxford's unmet need. On the 5th October 2023, at Planning Committee, the Council resolved to grant planning permission for 483 houses on two of the Oxford unmet need sites, known as PR sites (Policy sites PR7a and PR7b) (see **Appendix CDC8**) (subject to S106 agreements being completed). There are also a number of planning applications currently being considered which, collectively, seek to deliver a further 3,184 houses on the PR sites (See **Appendix CDC9**).
- 6.58 The Cherwell Local Plan 2011-2031 (Part 1) Partial Review - Oxford's Unmet Housing Need, at three years old, is an up-to-date policy and strategy document and is a material consideration and, with the recent resolutions to grant permission, 11.2% of the supply set out in the Partial Review, is deliverable.
- 6.59 Although the Council is in the process of preparing a Local Plan Review 2040 (LPR 2040) [**Core Docs H1**], which explores the possibility of pulling the Local Plan Part 1 and the Partial Review into one document, this emerging policy document is at the very early stages of preparation and the Council's approach could change before the Plan is submitted, particularly as the duty to cooperate process is on-going with neighbouring authorities on meeting Oxford's needs. Presently, Oxford City Council has yet to finalise its capacity/the figure it cannot meet within its boundaries. As such, very limited weight can be attached to the LPR 2040.
- 6.60 Whilst I accept that the need for housing is on-going and is not capped by an established five-year housing land supply position, any housing development still needs to respect the core principle of the plan led system. Cherwell's Local Plan Part 1: 2011-2031 sets out the basis for the sustainable delivery of housing; and a scheme which would cause the harm identified in the Council's evidence and be in conflict with several of the key local plan policies, cannot be considered to be a sustainable development that accords with the Council's spatial strategy.
- 6.61 My view is that the harm caused by this development cannot be justified by reference to housing supply. Whilst housing is normally a welcome and clear benefit, housing land supply at Heyford Park is considerable and significantly greater than provided for in the Plan; there is no policy support for its delivery at the expense of the local context.
- 6.62 Moreover, even in the event that the Inspector may conclude that the Council does not currently have five years of housing land supply, and that the tilted balance was to be engaged, the Council's/my view remains that the harm would significantly and demonstrably outweigh the benefits of the scheme.
- 6.63 In any event, the NPPF does not, to my knowledge, contain any paragraphs which suggest that the character and appearance of an area is only to be protected where there is an adequate five-year supply of housing land.
- 6.64 In this context, particular attention must be given to paragraph 71 in his judgement of the case of **Crane v SoSCLG EWHC 425 [Core Docs M25]** Mr Justice Lindblom made clear that the weight attributed to out of date policies depends on the extent of the deficit. He wrote:

(71) "As I have said, Mr Hill points, for example, to an expression used by Males J. in paragraph 20 of his judgment in Tewkesbury Borough Council – "little weight" – when referring to "relevant policies" that are "out of date". In Grand Union Investments Ltd. (at paragraph 78) I endorsed a concession made by counsel for the defendant local

planning authority that the weight to be given to the “policies for housing development” in its core strategy would, in the circumstances of that case, be “greatly reduced” by the absence of a five-year supply of housing land. However, the weight to be given to such policies is not dictated by government policy in the NPPF. Nor is it, or could it be, fixed in the case law of the Planning Court. It will vary according to the circumstances, including, for example, the extent to which the policies actually fall short of providing for the required five-year supply, and the prospect of development soon coming forward to make up the shortfall.”

- 6.65 Mr. Justice Lindblom and Sir Gary Hickinbottom reached the same conclusions in paragraphs 59-61 of **Gladman vs SoSCBCUDC [Core Docs M24]**.

Issue 4: Planning Obligations

- 6.66 The use of planning obligations to address the impact of development and ensure they are acceptable in planning terms is well established in legislation and national, regional and local planning policy. The NPPF and Cherwell District Council’s Local Plan (2011-2031) all recognise the importance of addressing the impacts of development and having effective mitigation in place to ensure that development can be accommodated sustainably.
- 6.67 The Council is keen to ensure that new development continues, as detailed in the Local Plan (2011-2031) [**Core Docs G1**]. However, new development which adds to the residential population, and on such a large-scale, places significant additional pressure on the local environment, infrastructure and public facilities. The Local Plan not only sets out plans for the delivery of development but also provides the basis upon which development can be delivered sustainably, and in a way that respects environmental limits and resident’s quality of life.
- 6.68 During the course of the application process Oxfordshire County Council, Cherwell District Council and its statutory consultees identified a number of vital capacity improvement works needed to absorb the residents from the new development, if permitted.
- 6.69 Full justification for the contributions, demonstrating how they are required as a result of development and whether they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development, will be provided in Oxfordshire County Council’s [**Core Docs __**] and Cherwell District Council’s CIL Reg.122 Compliance Statements [**Core Docs __**].
- 6.70 At the time of preparing this Proof of Evidence, a legal undertaking or a Section 106 agreement had not been completed, which means the proposal currently conflicts with the policies listed above, particularly INF1.
- 6.71 Without a commitment to sign the Section 106 agreement under the terms set out by the two Councils, the application would fail to comply with planning policy, would not sufficiently mitigate its impacts or pay for necessary works surrounding the site, and the proposal would not comply with the principles of sustainable development.

- 6.72 Discussions will continue between the Council and the Appellants on the Heads of Terms (and the appropriate wording for the Section 106 agreement). I intend to update the Inspector (prior to or at the Inquiry) regarding Section 106 matters but, at present, the proposal represents an unsustainable development that will not mitigate its own impacts.

Issue 5: Material Considerations and the Planning Balance

- 6.73 Paragraph 7 of the NPPF sets out the Government's view of what sustainable development means in practice for the planning system. In a case such as this, sustainability concerns more than just proximity to facilities; it also means ensuring that the physical and natural environment is conserved and enhanced as well as creating a high-quality built environment that contributes to building a strong economy through the provision of new housing of the right type in the right location at the right time.
- 6.74 The proposal would fail to satisfy the dimensions of sustainability identified in paragraph 8 of the NPPF. In particular, the environmental aspect of sustainability requires new development to contribute to protecting and enhancing the natural, built and historic environment. Due to its encroachment into the open countryside, the proposal would represent incongruous development beyond the built-up limits of this Policy Village 5 settlement, would cause demonstrable harm to the rural character and appearance of the area and, given its proximity to the edge of the former RAF Upper Heyford Conservation and views into and out of that area, its heritage setting would be harmed (to a less than substantial extent); the proposal would therefore fail to contribute to its protection and enhancement.
- 6.75 Part c of paragraph 8 of the NPPF also requires development to make effective use of land. The Council's view is that this development would not be making effective use of this land when it is causing such harm. My view is that effective use means a development that has high regard to context.
- 6.76 Whilst the proposal would result in some social (providing a satisfactory S106 legal agreement is entered into) and economic benefits, there is clearly an overlap in the three roles of sustainable development and paragraph 8 acknowledges this, stating that each objective, whilst independent "*need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives)*"
- 6.77 For completeness, I have set out what I consider to be the benefits and adverse harmful impacts of the scheme.
- *Provision of open market housing* – Moderate benefit (in the context of the Council having an adequate housing supply and a substantial supply in the locality, I attach moderate weight.
 - *Affordable housing provision* – Significant benefit (although the Council has an adequate housing supply, affordable housing is a key issue notwithstanding that there is considerable local supply, including 138 units currently being developed on the phase 10 land parcel at Heyford Park, which will become available during 2024); I nonetheless attach significant weight.

- *New residential spend which would support services and facilities in the area* – Moderate beneficial weight, as this expenditure would be expected on any similar sized housing scheme; so I attach moderate weight.
- *Providing jobs during the construction phase* – Limited beneficial weight, as they are expected on any policy compliant development and it is time limited; I attach only limited beneficial weight.
- *Connectivity* – Limited beneficial weight. The proposal with the footpath connections along Camp Road and through development westward towards other planned development and beyond would provide connectivity but nothing really beyond that which is required by policy; so no more than limited beneficial weight.
- *Site recreation and play facilities* – Neutral. They are a policy requirement necessary to meet the needs of future residents and therefore neither a benefit nor a harmful impact.
- *SuDS* – Neutral. The application site is inside Flood Zone 1 for fluvial flood risk and providing a means of draining the site, is a preventative measure to stop surface water flooding generally and mitigate impacts, rather than a benefit.
- *Sustainable Construction Methods* – Neutral. Whilst the Appellants (in their planning application documents) commit to using sustainable construction methods, which is welcomed, compliance with modern building regulations would have to be the case for the scheme to be acceptable, in any event.
- *Biodiversity Net Gain* - Neutral. According to the Appellants, there would be biodiversity gains, but such gains would be on a development that is otherwise environmentally harmful. Moreover, Biodiversity Net Gain will be mandatory for new major developments made after January 2024, in any event.
- *Landscape features* – Moderate adverse. In this instance, the landscaping proposed on the illustrative landscaping plan would undermine the character and appearance of the area, not maintain openness and would block views across the site into and out of the Conservation Area; so I attach moderate weight to this harmful impact.
- *Loss of countryside/landscape character* – Significant adverse weight given the loss of openness and resultant urbanisation.
- *Less than substantial harm on the setting of heritage assets* – Significant adverse given the loss of openness, which is an essential characteristic and integral element of the appearance of the former RAF Upper Heyford Conservation Area and the loss of views across the appeal site into and out of the Conservation Area.
- *Scale of development* – Significant adverse. It would break new ground and introduce a scale of development beyond the built-up limits of Heyford Park in the most visually sensitive land next to the village.
- *Conflict with the district's housing strategy* – Significant adverse.

- 6.78 For these reasons, the proposal would run contrary to the overarching principle of sustainable development and the harm the development would cause would significantly and demonstrably outweighs the benefits.

Conclusions

- 6.79 The final adopted Cherwell District Council Local Plan 2011-2031 is up to date. As is the Local Plan Partial Review 2031 and the Mid Cherwell Neighbourhood Plan 2018-2031. They must be accorded full weight and should be the starting point for the assessment of this appeal scheme.
- 6.80 The appeal proposal would result in the urbanisation of an attractive, rural landscape, irrevocably altering its character to its detriment and to the detriment of the setting of heritage assets at the former RAF Upper Heyford Conservation Area, and it does not accord with the Local Plan spatial strategy. The appellant's approach to the Council's Five-Year Housing Land supply methodology is also at odds with the established and tested position.
- 6.81 I have considered whether there are material considerations which should be applied which might outweigh the Development Plan. Notwithstanding the modest benefits which could flow from the proposed development, in my view, the overall balance is firmly against the appeal proposal, and the Development Plan should prevail.
- 6.82 Even if the contrary view is taken about the Council's published Five-Year Housing Land Supply position, and the "tilted balance" is applied, so that the adverse effects have to "significantly and demonstrably outweigh" the benefits, the same conclusion flows. The harms remain permanent and enduring but many of the benefits are essentially short term.
- 6.83 The breach of paragraphs 8(c), 20 (d), 130, 134 and 174 of the NPPF, the failure to satisfactorily comply with paragraphs 199, 202, 203 and 206 of the NPPF and breach of policies Villages 5, ESD1, ESD 13, ESD 15 and INF1 of the Local Plan 2015 and breach of saved policies C8, C30, C33 and H18 of the 1996 Local Plan are key aspects of that harm.
- 6.84 For the reasons set out in my Proofs of Evidence, and those of Jon Goodall and Dr Nicholas Doggett's Proofs of Evidence, I respectfully request that the appeal be dismissed.

7. DECLARATION

- 7.1 The evidence which I have prepared and provided for this appeal is true to the best of my knowledge. I confirm that the points and arguments expressed in this proof of evidence are my true and professional opinion.

APPENDIX CDC1

Refer to Core Documents D12, D22 & D13

APPENDIX CDC 2

Refer to Core Document D8

APPENDIX CDC3

Refer to Core Documents D3 & D20

APPENDIX CDC4

Refer to Core Documents D11, D7 & D21

APPENDIX CDC5

Refer to Core Documents D24, D6, D15, D16, D23, D18 & D19

APPENDIX CDC6

Refer to Core Document D4

APPENDIX CDC7

Refer to Core Document M16

APPENDIX CDC8

CDC Committee Resolutions to Grant planning permission for PR7a & PR7b

Planning Committee - 5 October 2023

60 Land At Bicester Road, Kidlington

The Committee considered application 22/00747/OUT, an outline application for the development of up to 370 homes, public open space (including play areas and woodland planting), sports pitches and pavilion, drainage and engineering works, with all matters reserved (appearance, landscaping, layout and scale) except for vehicular and emergency accesses to Bicester Road for Barwood Development Securities Limited and the Trustees of The Philip King Homes Trust at Land At Bicester Road, Kidlington.

Keith Fenwick, on behalf of the agent for the applicant, Pegasus, addressed the Committee in support of the application.

In reaching its decision the Committee considered the officers report and presentation and the addresses from the public speakers.

Resolved

That application 22/00747/OUT, in line with the officer's recommendation, be approved and authority be delegated to the Assistant Director for Planning and Development to grant permission, subject to

- a) The conditions set out below (and any amendments to those conditions as deemed necessary) and
- b) The completion of a planning obligation under section 106 of the town and country planning act 1990, as substituted by the Planning and Compensation Act 1991, to secure necessary mitigation as set out in the annex to the Minutes, as set out in the Minute book (and any amendments deemed necessary)
 - a. Provision of 50% affordable housing on site
 - b. On site green space and recreational routes in particular to the south and west of the site and appropriate maintenance contribution/arrangements.
 - c. Payment of a financial contribution towards proportionate highway contributions as set out in Appendix 4 of the Partial Review Local Plan.
 - d. Payment of a financial contribution towards Community Hall and Development, Outdoor and indoor sport contributions or facilitating the delivery on site.
 - e. Payment of a financial contribution towards Healthcare
 - f. Payment of a financial contribution towards Education
 - g. Payment of a financial contribution towards Library Services
 - h. Payment of a financial contribution towards Police
 - i. Appropriate arrangements for Open Space Management
 - j. Payment of the Council's monitoring costs of £10,000 plus OCC Monitoring Costs

61 **Stratfield Farm, 374 Oxford Road, Kidlington, OX5 1DL**

The Committee considered application 22/01611/OUT, an outline planning application for up to 118 no dwellings (all matters reserved except for access) with vehicular access from Oxford Road for Manor Oak Homes/G B Bishop-Fruedling & C A Parsons at Stratfield Farm, 374 Oxford Road, Kidlington OX5 1DL.

Huw Mellow, on behalf of the agent for the applicant, Carter Jonas, addressed the Committee in support of the application.

In reaching its decision the Committee considered the officers report, presentation, addresses from the public speakers and the written updates.

Resolved

That, in line with the officer's recommendation, application 22/01611/OUT be approved and authority be delegated to the Assistant Director for Planning and Development to grant permission, subject to:

- a) The conditions set out below (and any amendments to those conditions as deemed necessary) and
- b) The completion of a Planning Obligation under section 106 of the Town and Country Planning Act 1990, as substituted by the Planning and Compensation Act 1991, to secure the heads of terms as set out in the annex of the Minutes as set out in the Minute book (and any amendments as seemed necessary).
 - a) Provision of 50% affordable housing on site
 - b) Space reserved for the canal bridge and connection to the PR8 site and a proportionate contribution.
 - c) Green space and recreational routes to the south and west of the site and appropriate maintenance arrangements.
 - d) Payment of a financial contribution towards proportionate highway contributions as set out in Appendix 4 of the Partial Review Local Plan for approximately £528,793.59 plus Travel Hub and Cycle Superhighway contributions.
 - e) Payment of proportionate Canal Bridge contribution estimated at £150-250,000 Payment of a financial contribution towards Canal Towpath Enhancement of £47,489.40 to OCC and £372,000 (Canals and Rivers Trust)
 - f) Payment of a financial contribution towards Community Hall and Development, Outdoor and indoor sport contributions of £517,144.46
 - g) Payment of a financial contribution towards Healthcare of £101,800
 - h) Payment of a financial contribution towards Education of £849,759
 - i) Payment of a financial contribution towards Library Services of £12,700
 - j) Payment of a financial contribution towards Police of £25,180
 - k) Payment of a financial contribution to Public Realm and Public Art contributions £26,432.00 plus 7% maintenance
 - l) Payment of a financial contribution towards Open Space Management
 - m) Payment of the Council's monitoring costs of £5000 plus OCC Monitoring Costs

APPENDIX CDC9

Partial Review Sites

PR Site	Planning Reference Number	Number of dwellings
PR6A	23/01233/OUT	Up to 800
PR6b	No applications on	
PR7A South	22/00747/OUT	up to 370
PR7A North	22/03883/F	96 dw
PR7b	22/01611/OUT	up to 118 dw
PR8	23/02098/OUT	c.1800 dw
Pr9	21/03522/OUT	up to 540 dw (plus elderly/extra care) – an appeal against non determination has been lodged